

JAMES BUCHNOWSKI,
Petitioner,
vs.
DAVID MITCHELL, supt.,
Respondent.

While the United States Court of Appeals for the Fourth Circuit has not yet ruled on the issue of whether a district court has the authority to extend AEDPA's deadline for filing a federal habeas petition prior to such a petition being filed, the weight of authority of those courts of appeals that have considered this issue is that district courts do not possess such authority. See United States v. Callahan, 2003 WL 21554914 (5th Cir. July 9, 2003)(unpublished); United States v. Moore, 56 Fed. App'x 686 (6th Cir.

2003)(unpublished); Washington v. United States, 221 F.3d 1354 (10th Cir. 2000)(unpublished); United States v. Leon, 203 F. 3d 162 (2d Cir. 2000)(unpublished). This Court agrees with the above-referenced courts and holds that district courts lack jurisdiction to extend AEDPA's limitation period prior to a federal habeas petition being filed because no case or controversy exists.

Petitioner is reminded that, if he so wishes, he must file a federal habeas petition within the time frame set forth by AEDPA. Petitioner may, in conjunction with filing a federal habeas petition, however, request additional time to supplement his federal habeas petition.

IT IS, THEREFORE, ORDERED that Petitioner's Petition for Enlargement of Time (Doc. No. 1) is **DENIED**.

Signed: April 29, 2010

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

